

# INFORMATION SHEET

## DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK COUNTY V. U.S. ARMY CORPS OF ENGINEERS

**DISTRICT OFFICE:** Saint Paul District

**FILE NUMBER:** MVP-2004-161380-RMG

**REGULATORY PROJECT MANAGER:** Rebecca M. Gruber **Date:** February 22, 2005

**PROJECT REVIEW/DETERMINATION COMPLETED:** **In the office (Y/N)** **Y** **Date:** 22 Feb. 2005

**At the project site (Y/N)** **N** **Date:**

### PROJECT LOCATION INFORMATION:

State: Wisconsin

County: Washington

Center coordinates of site by latitude & longitude coordinates:

**43.5042, -88.2309 (NAD 27)**

Approximate size of site/property (including uplands) in acres

77 acres

Name or waterway of watershed: Milwaukee

3 wetlands

Type of Aquatic Resource <sup>1</sup> :	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear Feet	Unknown
Lake									
River									
Stream									
Mudflat									
Sandflat									
Wetlands			X						
Slough									
Prairie Pothole									
Wet Meadow									
Playa Lake									
Vernal Pool									
Natural Pond									
Other Water (identify type)									

<sup>1</sup>Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors <sup>1</sup>	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able to Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?				X	
Is or would be used as habitat by other migratory birds that cross state lines?				X	
Is or would be used as habitat for endangered species?				X	
Is used to irrigate crops sold in interstate commerce?				X	

<sup>1</sup>Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

**TYPE OF DETERMINATION:**                      **Preliminary X   Or   Approved**

**ADDITIONAL INFORMATION SUPPORTING NJD** (e.g., paragraph 1 site conditions; paragraphs 2-3 rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 site information on waters of the U.S. occurring onsite):

The three wetlands (subject of this document) are all considered fresh wet meadow to shallow marsh wetland. Dominant vegetation in these three basins (wetlands 1, 2, and 4) includes various sedges, giant goldenrod, slender rush, and blueflag iris. In addition to wetlands 1, 2, and 4, another basin (wetland 3, a “water of the United States”) is present on the subject property.

Wetlands 1, 2, and 4 lay entirely within the SE ¼ Section 16 of Township 12N, Range 19E., Washington County, Wisconsin. As such, the wetland boundaries lie entirely within the State of Wisconsin (intra-state wetlands). These wetlands do not display any connection to, nor are they considered adjacent to (separated by roadway or other anthropogenic structure) any waters of the U.S.

Wetlands 1, 2, and 4 are not, nor are they likely to be, used by interstate or foreign travelers for recreation, industry, or commerce. The wetlands lie on private property, without any public access. In addition, wetlands 1, 2, and 4 do not contain fish or shellfish which could be taken and sold. For these reasons, no commerce connection to these three wetlands has been established.

As indicated above, another wetland (wetland 3) was found on site, and was determined to lie within the regulatory jurisdiction of the Corps of Engineers pursuant to Section 404 of the Clean Water Act. This wetland is part of the tributary system of the Milwaukee River, a navigable water of the United States.